

February 22, 2018

*VIA FOIA online*

Regional Freedom of Information Officer  
U.S. EPA, Region 5  
77 West Jackson Boulevard (MI-9J)  
Chicago, IL 60604-3590

**RE: Freedom of Information Act (“FOIA”) Request for records and communications between Meteor Timber LLC and U.S. EPA**

Dear FOIA Officer:

In accordance with 5 U.S.C. § 552, Midwest Environmental Advocates (“MEA”) requests the following records:

1. All communications pertaining to the U.S. Environmental Protection Agency (“EPA”) Administrative Compliance Order on Consent in the matter of A&K Alexander Cranberry Co., LLC, attached hereto as Attachment A, between U.S. EPA and Meteor Timber LLC or its attorneys or representatives between January 1, 2016, and the date this request is fulfilled.

MEA requests all records of such communications, including, but not limited to, emails, attachments, correspondence, letters, or memoranda.

If EPA invokes a FOIA exemption to deny all or part of this request, please include sufficient information for us to assess the basis for the exemption, including any interest(s) that would be harmed by release. Please include a detailed ledger including:

1. Basic factual material about each withheld record or communication, including the originator, date, length, general subject matter, and location of each item; and
2. Complete explanations and justifications for the withholding, including the specific exemption(s) under which the record or communication (or portion thereof) was withheld and a full explanation of how each exemption applies to the withheld record or communication. Such statements will be helpful in deciding whether to appeal an adverse determination. Your written justification may help to avoid litigation.

I hereby request that the EPA waive the fees associated with this request. As a non-profit organization, MEA does not have any commercial interest in the records requested herein.

The purpose of FOIA’s fee waiver provision is precisely to facilitate access to agency records by citizens groups such as MEA; indeed, congress has recognized the importance of FOIA to the ongoing missions of public interest organizations who seek to ensure the

proper function of government. See Better Gov't Ass'n v. Department of State, 780 F.2d 86, 88-89 (D.C. Cir. 1986).

The EPA typically looks to six factors to determine whether the disclosure of the information is likely to contribute to public understanding of the operation and activities of the government; see 40 C.F.R. § 2.107(1). Each factor is discussed below.

*A. The subject of the request concerns the identifiable operations and activities of the federal government.*

The subject of this request concerns the EPA's role in enforcing the Clean Water Act ("CWA"). The EPA, as the primary entity charged with the implementation and enforcement of the CWA, must ensure that its enforcement orders are complied with and followed by other state and federal agencies. It is the performance of this oversight function by the EPA, and the EPA's authority to correct noncompliance, that is the subject of this request.

*B. The requested records are meaningfully informative of government operations*

The requested records contain information detailing the EPA's oversight of the CWA, and its enforcement of the CWA and orders issued to enforce the CWA. Release of the communications requested herein will shed light on the EPA's efforts to ensure that the compensatory mitigation required in the attached Administrative Compliance Order on Consent is not filled by a subsequent property owner.

*C. Disclosure of the requested records will contribute to the understand of the public at large.*

The disclosure of the requested communications will further the understanding of the public at large because the requestor has the intent, expertise, and means to distill and disseminate the requested information to the public.

MEA is an organization that has considerable expertise in the CWA and wetland permits in general. MEA is committed to strengthening environmental controls and furthering enforcement of existing law governing these kinds of discharges. MEA has worked collaboratively in the past to educate the public of the environmental impacts of the CAA, and the need for greater enforcement of applicable state and federal requirements.

Additionally, MEA has the legal, policy, and technical experts on staff, with broad experience in the CWA and its implementation, who will distill the contents of the communications and provide that information to the public at large. MEA maintains a list of activists, concerned citizens, donors, and members who are themselves interested in learning more about water pollution issues. The information gleaned from the requested records, once analyzed, will be disseminated to these individuals and organizations.

*D. The contribution to public understanding will be “significant” and the level of public understanding will increase as a result of disclosure.*

Meteor Timber LLC’s proposal to fill wetlands adjacent to or underlying an area protected by the EPA Administrative Compliance Order on Consent has received considerable public attention. The requested records will shed significant light on the relationship between Meter Timber LLC’s project and the land protected under the EPA Administrative Compliance Order on Consent.

*E. Disclosure of the information is not primarily in the commercial interest of the requester.*

As a non-profit organization, MEA does not have any commercial interest in the records requested herein. We have a public interest mission to ensure clean water, air, land, and government for this generation and the next.

*F. The ability of the requester to disseminate the information.*

MEA has a page on its website to post responses to record requests such as this FOIA request to the EPA. That information will be available to the public through the Google search function on our website. See <http://midwestadvocates.org/issues-actions/issues/detail/government>

We also regularly blog and send out email alerts to inform the public about opportunities for public comment. In these blogs and email alerts, we link to other information and resources on our website such as the information that will be provided on our Open Government page. See <http://midwestadvocates.org/opengovernment>

Please contact me at (608) 251-5047 extension 2 if you need to discuss any aspect of my request. I anticipate receiving your response to my request within twenty days, as required under 5 U.S.C. § 552(a)(6)(A).

Thank you for your consideration of this request.

Sincerely,

/s/

Ry Carpenter  
Community Services Coordinator  
Midwest Environmental Advocates, Inc.